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| 10/561,584 | 12/19/2005 | Manfred Korthauer | 554-001.002 | 6467 |

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| EXAMINER |
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EVANISKO, LESLIE J

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| ART UNIT | PAPER NUMBER |
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2854

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03/31/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/561,584

Applicant(s)

KORTHAUER, MANFRED

Examiner

Leslie J. Evanisko

Art Unit

2854

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12/14/2009 & 11/09/2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) 2-5,8,13 and 14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,6,7 and 9-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 December 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on November 9, 2009 has been entered.

Election/Restrictions

2. Claims 2-5, 8, and 13-14 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected inventions, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on September 29, 2008.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

Art Unit: 2854

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 6-7, and 9-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Korthäuer et al. (US 5,967,040).

With respect to claim 1, Korthäuer et al. teach a printing device 1 for printing sheet elements (i.e., labels 10) serially fed to the printing device comprising at least two separate feed devices 2a, 2b, 2c, 12a, 12b, 12c for each liner strip comprising the sheet elements 10, each feed device comprising a peeling-off device 6a, 6b, 6c for peeling the sheet elements from each liner strip, wherein the feed devices are associated with a print head 8, 13 with a thermal slot for printing each sheet element 10 supported by a counterpressure surface (the upper supporting surface of the elements 6a, 6b, 6c) and comprising an application device 9, 11 for removing the printed sheet element from the print head and applying the printed sheet element to a product, characterized in that the counterpressure surface forms part of the print head so as to maintain a fixed relationship to the print head. Note that the counterpressure surface can be considered to "form" part of the print head as broadly recited since these two elements are part of a larger machine and have to be used together to result in proper printing of the labels. Furthermore, note that the counterpressure surface of Korthäuer et al. can broadly be considered to maintain a "fixed relationship" to the print head such that no

relative movement between the counterpressure surface and the print head can occur, at least during the printing operation, in order to have an operable device that prints clearly.

With respect to claim 9, Korthäuer et al. teach a single print head 8, 13 is associated with the feed devices 2a, 2b, 2c, 12a, 12b, 12c and the association of the print head with the feed devices takes place via an adjustment device (i.e., the movement mechanism that allows for relative movement between print head and feed devices).

With respect to claims 6-7, Korthäuer et al. teach the feed devices 2a, 2b, 2c, 12a, 12b, 12c are arranged vertically, one on top of the other (see Fig. 1) and the application device is embodied as a stamp 11 that can move in a vertical direction.

With respect to claim 10, note Korthäuer et al. teach the application device 11 is coupled to the adjustment device (movement mechanism for 13).

With respect to claim 11, note Korthäuer et al. teach that the application device 11 and the adjustment device can be moved independently from the other along a single axis (i.e., the adjustment device moves along a horizontal axis while the application device moves independently along a vertical axis).

With respect to claim 12, note Korthäuer et al. teach that an additional application device (i.e., conveying strips 5a, 5b, 5c) removes the labels 10 from

the feed devices 2a, 2b, 2c, 12a, 12b, 12c and feeds them to the print head 8, 13.

Response to Arguments

5. Applicant's arguments filed November 9, 2009 have been fully considered but they are not persuasive of any error in the above rejections.

In particular, applicant argues that Korthäuer et al. fail to teach a counterpressure surface that forms part of the print head so as to maintain a fixed relationship to the print head and so that no relative movement between the counterpressure surface and the print head can occur. Applicant argues that Korthäuer et al. does not anticipate or suggest the present invention of claim 1 since Korthäuer et al. discloses a label printer that has relative movement between the counterpressure surface and the printing device and does not maintain a fixed relationship to the printhead.

The Examiner disagrees with this argument. Again, the Examiner points out that the counterpressure surface can be considered to "form" part of the print head as broadly recited since these two elements are part of a larger machine and have to be used together to result in proper printing of the labels. Furthermore, note that the counterpressure surface of Korthäuer et al. can broadly be considered to maintain a "fixed relationship" to the print head so that no relative movement between the counterpressure surface and the print

head can occur, at least during the printing operation, in order to have an operable device that prints clearly. Again, since the printhead and counterpressure surface have no relative movement during a printing operation, it is the Examiner's position that the device of Korthäuer meets the claim language as broadly recited.

In view of the above reasoning, the Examiner is not persuaded of any error in the above rejection.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Leslie J. Evanisko** whose telephone number is **(571) 272-2161**. The examiner can normally be reached on T-F 8:00 am-6:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Nguyen can be reached on (571) 272-2258. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR